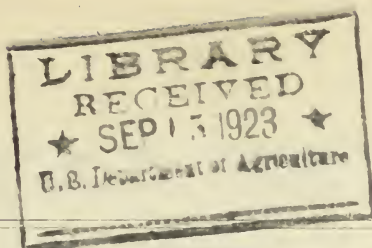


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United States Department of Agriculture,
BUREAU OF AGRICULTURAL ECONOMICS.

Service and Regulatory Announcements No. 78.

RULES AND REGULATIONS

OF THE SECRETARY OF AGRICULTURE
GOVERNING THE

INSPECTION AND CERTIFICATION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS.

UNDER AN ACT OF CONGRESS APPROVED FEBRUARY 26, 1923
(PUBLIC No. 446, 67TH CONGRESS).

ISSUED SEPTEMBER, 1923.

By virtue of the authority vested in the Secretary of Agriculture by the following provisions of an act of Congress entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1924," approved February 26, 1923 (Public 446, 67th Congress)—

"For enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the quality and condition of fruits, vegetables, poultry, butter, hay, and other perishable farm products, when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

I, C. W. PUGSLEY, Acting Secretary of Agriculture, do prescribe and promulgate the following rules and regulations to be in force and effect on and after July 1, 1923, until amended or superseded by rules and regulations hereafter prescribed and promulgated under said law.



In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the city of Washington, this 30th day of June, 1923.

C. W. PUGSLEY,
Acting Secretary of Agriculture.

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS.

Regulation 1. Definitions.

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SECTION 2. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean—

Paragraph 1. *The act.*—The following provisions of an act of Congress entitled “An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1924,” approved February 26, 1923 (Public, No. 446, 67th Cong.): “For enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the quality and condition of fruits, vegetables, poultry, butter, hay, and other perishable farm products, when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.”

Paragraph 2. *Secretary.*—The Secretary or Acting Secretary of Agriculture of the United States.

Paragraph 3. *Bureau.*—The Bureau of Agricultural Economics of the United States Department of Agriculture.

Paragraph 4. *Products.*—Fruits, vegetables, nuts, and other perishable farm products not covered by other regulations under the act.

Paragraph 5. *Inspector.*—An employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the quality and condition of products under the act.

Paragraph 6. *Office of Inspection.*—The office of an inspector of products covered by these regulations.

Paragraph 7. *Inspection certificate.*—A certificate of the quality and condition of products issued by an inspector under the act.

Paragraph 8. *Regulations.*—Rules and regulations of the Secretary under the act.

Regulation 2. Administration.

SECTION 1. The chief of the bureau is charged with the supervision of the performance of all duties arising in the administration of the act.

Regulation 3. Where Service is Offered.

SECTION 1. (a) Inspection may be made wherever products are offered for interstate shipment, including fields, orchards, packing houses, common and cold-storage warehouses, loading platforms, railway and express cars.

(b) The following are designated as important central markets at which products may be inspected for the purposes of the act when inspectors are available at such markets for the inspection of the kind of products involved:

Atlanta, Ga.	Houston, Tex.	Philadelphia, Pa.
Baltimore, Md.	Indianapolis, Ind.	Pittsburgh, Pa.
Boston, Mass.	Kansas City, Mo.	Portland, Oreg.
Buffalo, N. Y.	Los Angeles, Calif.	Sacramento, Calif.
Chicago, Ill.	Louisville, Ky.	Salt Lake City, Utah.
Cincinnati, Ohio.	Memphis, Tenn.	San Diego, Calif.
Cleveland, Ohio.	Milwaukee, Wis.	San Francisco, Calif.
Columbus, Ohio.	Minneapolis, Minn.	Scranton, Pa.
Denver, Colo.	New Haven, Conn.	St. Louis, Mo.
Detroit, Mich.	New Orleans, La.	Washington, D. C.
Erie, Pa.	New York, N. Y.	Wilkes-Barre, Pa.
Fort Worth, Tex.	Norfolk, Va.	
Harrisburg, Pa.	Omaha, Nebr.	

(c) Inspection may be made at any point near a designated market under conditions provided in regulation 9, paragraph 3, to the extent permitted by the time of the nearest inspector.

Regulation 4. Products Covered.

SECTION 1. Fruits, vegetables, nuts, and other perishable farm products not covered by other regulations under the act may, to the extent to which inspection facilities therefor are from time to time available, be inspected under the act.

Regulation 5. Application for Inspection.

SECTION 1. An application for inspection under the act may be made by a State or by any person having a financial interest in the products involved, including the shipper, the receiver, or the carrier, or by any authorized person in behalf of such applicant. Such application shall be filed in the office of inspection or with any authorized inspector at or nearest the place where inspection is desired.

SECTION 2. Such application shall be in English and may be made in writing or orally, by telegraph, telephone, or otherwise. It may be made for one or more cars or may be a blanket application for inspection of all designated cars of a given commodity within a given period, or for all designated cars loaded or received at a given point. If made orally, the inspector may require that it be confirmed by application in writing or by telegraph, stating the facts required by section 3 of this regulation.

SECTION 3. Each application for inspection shall state (a) the name and post-office address of the applicant and of the person, if any, making the application in his behalf; (b) the name and post-office address of the shipper; (c) the kind and quantity of the products involved; (d) the financial interest of the applicant (except the State)

therein; (e) the identification of the products by (1) grade, brand, or other marks, if possible, and (2) car initials, car number, and name of carrier, if possible; (3) name and location of store, warehouse, or other place where the products are located, or (4) any other necessary information; and (f) the particular quality or condition concerning which inspection is requested, to which may be added the particular time and place at which it is desired that the inspection be made; (g) the name and address of the receiver; (h) the name of the shipping point and of the destination.

SECTION 4. Each application shall be deemed filed when delivered to the proper office of inspection. When such application is filed, a record showing the date and time of filing shall be made in such office.

SECTION 5. Any application may, upon request of the applicant or for any noncompliance with the act or any regulation thereunder, be rejected by the inspector in charge of the office of inspection in which it is filed, and such inspector shall immediately notify the applicant by telegraph or in writing of the reasons for such rejection.

SECTION 6. Proof of the authority of any person applying for inspection on behalf of another may be required in the discretion of the inspector.

Regulation 6. Inspection.

SECTION 1. The applicant shall cause the product for which inspection is requested to be made accessible for inspection and to be so placed as to disclose its quality and condition.

SECTION 2. As many inspections shall be made as facilities permit and as far as practicable in the order in which applications are received, except that preference may be given to applications made by a state.

SECTION 3. No inspector shall inspect any products in which he is directly or indirectly financially interested.

SECTION 4. An inspector may, of his own motion and without the use of any force, when authorized by the chief of the bureau, investigate the quality and condition of any products at such points as are provided under regulation 3, and may issue and transmit to the shipper of such products and other parties interested therein certificates or copies thereof showing the results of such investigations.

Regulation 7. Inspection Certificates.

SECTION 1. The inspector shall sign and issue a separate certificate for each lot of products inspected by him: *Provided*, That when application for inspection is made by any branch of the Federal Government or by a public institution or a public carrier, for the purpose of determining whether food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by appropriate stamp or mark on such products or the containers thereof, or otherwise, in the discretion of the inspector. Each kind of fruit or vegetable shall constitute a separate lot but different varieties of the same kind of fruit or vegetable shall not be so considered.

SECTION 2. The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by him. Upon the request of the applicant prior to issuance, not more than three copies of the certificate may be issued to him without extra charge. If the shipper is not the applicant, a copy of the original certificate shall be delivered or mailed to him.

SECTION 3. Upon request of the applicant, all or any part of the contents of the certificate may be telegraphed or telephoned to him at his expense.

SECTION 4. One copy of each certificate shall be filed in the food products inspection office and one forwarded to the chief of the bureau.

Regulation 8. Reinspections.

SECTION 1. An application for reinspection by the applicant or other person financially interested in the product may be filed within two days after the receipt of the certificate (1) in the local inspection office at the point where the inspection was made, if there is one, or (2) with the inspector who made the original inspection, or (3) with any inspector, or (4) with the chief of the bureau, whenever such applicant or person is dissatisfied with the determination stated in the original certificate. Such application shall state the reasons therefor and shall be accompanied by a copy of any previous inspection certificate or inspection report or any other information which the applicant shall have received regarding the quality and condition of the product at the time of the original inspection. Such application may be made in writing or orally, by telegraph, telephone, or otherwise. If made orally, it shall be confirmed immediately in writing.

SECTION 2. A record showing the date and time of filing such application shall be made by the receiver thereof.

SECTION 3. Applications for reinspection shall be passed upon by inspectors designated for the purpose by the chief of the bureau.

SECTION 4. If it shall appear that the reasons stated in an application for reinspection are frivolous or unsubstantial or that the quality or condition of the products has undergone a material change since the original inspection, or that the products can not be made accessible for a thorough examination of all parts of the lot, or these regulations have not been complied with, the application may be denied. Otherwise, the inspection shall, if practicable, be made. All reinspections shall be made by inspectors specially designated therefor by the chief of the bureau.

SECTION 5. Second inspections requested to determine factors of quality or condition which may have undergone material change since the original inspection shall not be considered reinspections within the meaning of this regulation.

SECTION 6. Reinspections shall as far as practicable be made in the order in which the applications therefor are filed, and take precedence over all other pending applications.

SECTION 7. Immediately after a reinspection has been made, a certificate designated as "Reinspection Certificate" shall be signed and issued, referring specifically to the original certificate and stating

the quality and condition of the product as shown by the reinspection. In all other respects, the provisions of regulation 7 shall apply to such reinspection certificate, except that if the applicant for reinspection be not the original applicant a copy of the reinspection certificate shall be mailed to the original applicant. If the applicant for reinspection be the original applicant, such reinspection certificate shall not be issued until the applicant shall have returned to the office of inspection the certificate originally issued.

Regulation 9. Fees.

SECTION 1. Paragraph 1. For each lot of products inspected a fee determined in accordance with paragraph 2, 3, or 4 of this section or such supplemental schedules as may be furnished the inspector from time to time by the Secretary shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the inspector, and in advance if required by the inspector. Fees for inspections made by the salaried inspector acting exclusively for the Department of Agriculture shall be promptly remitted to the disbursing clerk of the Department of Agriculture. Fees for inspections made by a licensed inspector acting exclusively for the Department of Agriculture, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the disbursing clerk of the Department of Agriculture. Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with the State, as may be due the United States, shall be remitted to the disbursing clerk of the Department of Agriculture. The disbursing clerk of the Department of Agriculture will cause to be returned to the person entitled thereto any money remitted in excess of the amount due the United States and to be deposited in the Treasury as miscellaneous receipts all moneys found to be due the United States.

Paragraph 2. For each lot of products inspected, except under section 4 of regulation 6, the fee shall be as follows: \$4 when the quantity involved is more than one-half of a carload of the maximum customary size for such products but not more than a full carload, and \$2.50 when the quantity involved is not more than one-half of such a carload; but the maximum fee for any carload not exceeding the maximum customary size shall be \$7.50. When the lot involved is in excess of a carload or is not contained in cars, the quantity shall be calculated in terms of carloads and fractions thereof of the maximum customary size for such carloads and the rates aforesaid applied, except that when inspections are made on which formal certificates are not issued, as provided in regulation 7, section 1, or when the products inspected can not readily be calculated in terms of carlots, charges for inspection may be based on the time consumed by the inspector in connection with such inspections computed at the rate of \$2 per hour.

Paragraph 3. Such further charges may be made for traveling expenses and other items paid or incurred by the Department of

Agriculture in connection with an inspection made at a place where no inspector is located, as will reimburse the department.

Paragraph 4. For not to exceed three copies of a certificate furnished to any person financially interested in the products involved, except as provided in section 2 of regulation 7, and section 4 of regulation 6, the fee shall be \$1, but the maximum fee for such copies in the case of a single car shall not exceed \$5.

Paragraph 5. Fees for reinspections shall be three times those for original inspections, except that when it is found that there was a material error in the determination based upon the original inspection no fee will be charged.

Regulation 10. Fraud.

SECTION 1. Paragraph 1. Any wilfull misrepresentation or any deceptive or fraudulent practice made or committed by any applicant for inspection or reinspection may be deemed sufficient cause for debarring the person guilty thereof from any further benefits of the act and in case of violation of the Food and Drugs Act of June 30, 1906, may subject the shipper to prosecution and the products to seizure.

Regulation 11. Publications.

SECTION 1. Publications under the act and these regulations shall be made in Service and Regulatory Announcements of the Bureau of Agricultural Economics and such other media as the chief of that bureau may from time to time designate for the purpose.

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